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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20054

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of)	
)	
Federal-State Joint Board)	CC Docket No. 96-45
on Universal Service)	

COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint") hereby respectfully submits its Comments in response to the Petitions for Reconsideration ("PFRs") of the Commission's Report and Order, released May 8, 1997 in the above-captioned proceeding.

In its Petition for Reconsideration, Sprint urged the Commission to adopt a national or combined state and federal USF plan providing a reasonable level of support to intrastate as well as interstate services.¹ Sprint noted that the Commission's new USF plan would cause a jurisdictional shift in costs to the intrastate jurisdiction without any certainty as to action by the states to adopt intrastate USF plans. Accordingly, Sprint proposed that if the Commission did not reconsider and adopt a national USF plan, that the Commission should preserve the existing interstate allocation for USF purposes for a transitional time period to allow the states to act.

1. Sprint Corporation Petition for Reconsideration, filed July 17, 1997, at p. 2.

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Numerous parties raised similar concerns in their PFRs.²

Vermont stated:

Section 254(b) of the Telecommunications Act of 1996 delegated to the Commission and the Joint Board full responsibility for fulfilling the Act's universal service principles. The Commission found that [Section] 254(b) placed this responsibility exclusively on its shoulders in the USF Order.... The Commission's findings under [Section] 254(b) here do not comport with the Commission's decision to fund only one₃ quarter of the high cost need from the federal Fund."³

Wyoming agreed that the Commission should have established a national fund and, that without such a national fund:

It is even more and potentially damaging for a significant change in support, such as the one proposed in the Order, to occur without a transition period. ... Local rates will be seriously impacted immediately unless the state universal service fund will be able to absorb the change. The state universal service fund in Wyoming will not be able to accommodate this dramatic of a change in such a short time frame, if ever."⁴

Finally, US West points out:

In the Universal Service Order, the Commission correctly concluded that it has authority under the Act to establish a unified interstate-intrastate fund for high-cost service....Instead, the Commission chose to

2. See e.g., Petition for Reconsideration by the Wyoming Public Service Commission ("Wyoming"), filed July 17, 1997 at pp. 2-4; Petition for Reconsideration by the Arkansas Public Service Commission ("Arkansas") filed July 17, 1997 at pp.1-3; Petition for Reconsideration and Clarification of the Vermont Public Service Board and the Vermont Department of Public Service ("Vermont"), filed July 17, 1997 at pp. 2-6; and Petition for Reconsideration and Clarification of US West, Inc. ("US West"), filed July 17, 1997 at pp. 2-9.

3. Vermont at pp. 2-3 citing to the Report and Order at para. 815.

4. Wyoming at pp. 3-4.

provide high-cost support for only the federal portion of the local loop, and to rely on the states to provide the balance of the funds necessary to assure universal service.

...
What is more, even those states that have the means to fund an intrastate high-cost fund have no federal legal obligation to do so. The Act does not - indeed, cannot - require the states to fund intrastate universal services. Rather, Congress merely acknowledged that states have the option to supplement the federal scheme for universal support adopted in the Act.⁵

Sprint strongly agrees with these comments. The Commission has found that it has the authority to adopt a national USF plan and fund. Its failure to do so, or at least to provide a transitional period to ease the shift of the burden to the states, raises serious questions about the ability of the Commission's plan to adequately preserve and advance universal service.

Contributions to the national fund must be based on combined intrastate and interstate revenues. The services supported by USF are intrastate in nature. Providers of intrastate services in high cost areas will be among the primary beneficiaries of universal service subsidies. Thus it is only reasonable to

5. US West at pp. 2 & 4.

consider intrastate revenues in determining universal service contributions.⁶

Additionally, use of interstate only revenues for high cost support as in the new Commission plan fails the statutory requirement for competitive neutrality. Use of interstate revenues only exempts the majority of LECs' revenues while including the majority of IXCs' revenues. Placing such a disproportionate burden on IXCs and other carriers whose revenues are primarily interstate is inconsistent with Section 254(b)(4)'s requirement for equitable and nondiscriminatory contributions.

Finally, use of interstate-only revenues will likely have serious detrimental economic consequences. If the fund is recovered from a relatively small revenue base (i.e., interstate only revenues), the surcharge that will be required of interstate carriers will necessarily be higher than if a larger revenue base (i.e. interstate and intrastate) is used. The higher the surcharge, the greater will be the negative effect on demand for interstate services. This problem also furthers the competitive

6. MCI Telecommunications Corporation argues at page 6 of its Petition for Reconsideration and Clarification that because the FCC determined that carrier's share of support for the federal high cost fund should only come from interstate and international end-user revenues the States, in adopting state funds, may only look to intrastate revenues; otherwise the state plans will be inconsistent with the Commission's Order in violation of Section 254(f). Sprint agrees with MCI that the state funds, if and when adopted, may only look to intrastate revenues. Nothing in the Act or the Commission's Report and Order expands the States' jurisdiction beyond their respective boundaries. However, as noted in these Comments, the Act empowers the Commission to, and indeed the Commission must, adopt a national plan that utilizes interstate, international, AND intrastate revenues.

neutrality problem because local service providers who receive high cost support, but do not contribute to the support mechanism on the basis of their intrastate revenues (which is likely their greatest source of revenues) are, to a certain extent, insulated against the pressure to operate as efficiently as possible. This is neither competitively neutral, nor is it in the public interest.

Sprint also sought reconsideration of the Commission's determination that for purposes of eligibility to receive USF funds, a carrier could satisfy the facility requirement by providing its own access to operator services, while obtaining the remainder of its basic services through resale.⁷ This determination would allow CLECs to obtain basic services at wholesale rates, which are calculated as a discount off of retail rates already priced below cost, and to receive the support funding intended to maintain those below cost retail rates.

Time Warner raised the same concern noting that in the Report and Order the Commission said, "universal service support should be provided to the carrier that incurs the costs of providing service to a customer."⁸ As Time Warner correctly points out:

Clearly, if a carrier is only providing access to operator services and is providing the remaining services through resale, it is incurring only a small

7. Sprint at pp. 3-4.

8. Petition for Reconsideration of Time Warner Communications Holdings, Inc. ("Time Warner"), filed July 17, 1997 at p. 2 citing para. 162 of the Report and Order.

fraction of the total cost of the service to the customer. However, the reseller will receive all of the related universal service support, in direct contradiction with the principle that the carrier that incurs the costs of providing service to a customer should receive the related universal service support.⁹

Accordingly, on reconsideration the Commission should revise its determination and provide that a new entrant providing an unbundled service, such as operator services, over its own facilities must either provide the remaining basic services required for USF eligibility over its own facilities or through the purchase of the ILEC's unbundled network elements. Thus, a reseller offering access to operator services over its own facilities would be required to obtain the remainder of the basic services from the ILEC as unbundled network elements or through its own facilities.

US West also requests reconsideration of the Commission's determination that LECs should continue to recover their USF contributions from the carrier common line basket because "[t]his recovery mechanism perpetuates the practice of implicit subsidies."¹⁰ Rather, US West argues that:

To ensure the the Commission's Universal Service Order complies with the requirement that funding be explicit,

9. Id. at p. 3.

10. US West at pp. 9-10. See also, Petition for Reconsideration and Clarification of AT&T Corp., filed July 11, 1997, at pp. 2-8. See also, AT&T at p. 3, where AT&T objects that allowing ILECs to assign their USF support obligation as an exogenous cost-casulative adjustment to interstate end user telecommunications services revenue baskets continues implicit subsidies and violates competitive neutrality.

the Commission should require contributors to collect the funding as a surcharge that is both based upon and reflected in the end user's retail bill for both intrastate and interstate services.¹¹

Sprint agrees with US West and Wyoming and urges the Commission to fulfill the statutory mandate to eliminate implicit subsidies from USF by requiring a surcharge on end user retail bills for both interstate and intrastate services. The Commission has already determined that it has the authority to establish a interstate-intrastate fund for high-cost service and, indeed, has established such a fund for support for education and health care. There is no reason nor support in the statute to refrain from doing the same for the high-cost fund.

Sprint PCS filed for clarification asking that the Commission confirm that "states must conduct their intrastate universal service programs in a competitively - and technologically - neutral fashion that gives CMRS providers a full opportunity to participate in those programs."¹² Sprint agrees. The statute requires that State USF regulations must be consistent with the Commission's regulations [Section 254(f).] The Commission has ruled that wireless carriers are eligible

11. Id. at p. 10. See also, Wyoming at pp. 5-6 arguing that the only way to ensure that USF funding achieves the competitive neutrality required by the Act "is to assess a carrier's contribution on interstate and intrastate retail revenues."

12. Petition for Clarification of Sprint Spectrum L.P. D/B/A Sprint PCS, filed July 17, 1997 ("Sprint PCS") at p. 1.

provided they offer the required services pursuant to Section 214(e)(1).¹³ Any State USF plan must comport with the Commission's rules in this regard to be compliant with the statutory mandate.

PCIA seeks reconsideration of the Commission's Report and Order to require messaging providers to contribute in full to USF, "despite the fact they cannot receive any universal service support monies."¹⁴ PCIA claims that the decision requiring messaging providers to pay without allowing them to receive is contrary to Section 254(d)'s requirement that contributions to USF be "equitable" and "non-discriminatory." PCIA misconstrues the statute. Section 254(d) requires that "Every telecommunications carrier that provides interstate telecommunications services shall contribute." There is absolutely no tie in the statute - explicit or implicit - between contributions and receipt of funds. Rather, the determination as to receipt of funds depends on whether the carrier is providing the required services through its own facilities (or through unbundled elements) and thus incurring the costs to provide those services. If messaging providers do not provide those services

13. Report and Order at para. 145.

14. Personal Communications Industry Association Petition for Partial Reconsideration and Clarification ("PCIA"), filed July 17, 1997 at p. 1.

then they are not incurring the costs that require support and therefore should not receive any. However, that in no way relieves them of their statutory obligation to contribute.

Respectfully submitted,

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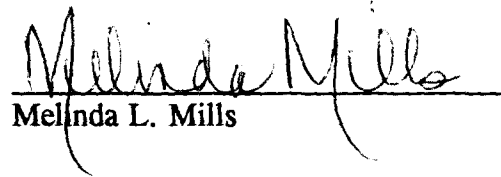
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August 18, 1997

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 18th day of August, 1997, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Comments of Sprint Corporation" in the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, filed this date with the Acting Secretary, Federal Communications Commission, to the persons on the attached service list.


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